

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

PATRICK MUN KIN CHUNG, Respondent

Registered Pharmacist License No. RPH 62941

Agency Case No. 6981

OAH No. 2020120294

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 18, 2021.

It is so ORDERED on July 19, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh", is written over a light gray rectangular background.

Seung W. Oh, Pharm.D.
Board President

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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

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14 In the Matter of the Accusation Against:

15 **PATRICK MUN KIN CHUNG**
16 **39 Pawprint**
Irvine, CA 92618

17 **Registered Pharmacist License No. RPH**
18 **62941**

19 Respondents.

Case No. 6981

OAH No. 2020120294

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
24 (Board). She brought this action solely in her official capacity and is represented in this matter by
25 Rob Bonta, Attorney General of the State of California, by Michael M. Karimi, Deputy Attorney
26 General.

27 2. Respondent Patrick Mun Kin Chung (Respondent) is represented in this proceeding
28 by attorney Scott J. Harris, Esq., whose address is 8383 Wilshire Blvd., Suite 210 Beverly Hills,

1 CA 90211.

2 3. On or about August 18, 2009, the Board issued Registered Pharmacist License No.
3 RPH 62941 to Patrick Mun Kin Chung (Respondent). The Registered Pharmacist License was in
4 full force and effect at all times relevant to the charges brought in Accusation No. 6981, and will
5 expire on February 28, 2021, unless renewed.

6 **JURISDICTION**

7 4. Accusation No. 6981 was filed before the Board, and is currently pending against
8 Respondent. The Accusation and all other statutorily required documents were properly served
9 on Respondent on September 21, 2020. Respondent timely filed his Notice of Defense contesting
10 the Accusation.

11 5. A copy of Accusation No. 6981 is attached as exhibit A and incorporated herein by
12 reference.

13 **ADVISEMENT AND WAIVERS**

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 6981. Respondent has also carefully read, fully
16 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
17 Order.

18 7. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 **CULPABILITY**

27 9. Respondent understands and agrees that the charges and allegations in Accusation
28 No. 6981, if proven at a hearing, constitute cause for imposing discipline upon his Registered

1 Pharmacist License.

2 10. For the purpose of resolving the Accusation without the expense and uncertainty of
3 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
4 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
5 those charges.

6 11. Respondent agrees that his Registered Pharmacist License is subject to discipline and
7 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
8 below.

9 **CONTINGENCY**

10 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
11 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
12 communicate directly with the Board regarding this stipulation and settlement, without notice to
13 or participation by Respondent or his counsel. By signing the stipulation, Respondent
14 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
15 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
16 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
17 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
18 and the Board shall not be disqualified from further action by having considered this matter.

19 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
20 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
21 signatures thereto, shall have the same force and effect as the originals.

22 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
23 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
26 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
27 writing executed by an authorized representative of each of the parties.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Pharmacist License No. RPH 62941 issued to Respondent Patrick Mun Kin Chung is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves

respondent's license or which is related to the practice of pharmacy or the

manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

1 Failure to submit timely reports in a form as directed shall be considered a violation of
2 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
3 total period of probation. Moreover, if the final probation report is not made as directed,
4 probation shall be automatically extended until such time as the final report is made and accepted
5 by the board.

6 3. Interview with the Board

7 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
8 with the board or its designee, at such intervals and locations as are determined by the board or its
9 designee. Failure to appear for any scheduled interview without prior notification to board staff,
10 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
11 the period of probation, shall be considered a violation of probation.

12 4. Cooperate with Board Staff

13 Respondent shall timely cooperate with the board's inspection program and with the board's
14 monitoring and investigation of respondent's compliance with the terms and conditions of his
15 probation, including but not limited to: timely responses to requests for information by board
16 staff; timely compliance with directives from board staff regarding requirements of any term or
17 condition of probation; and timely completion of documentation pertaining to a term or condition
18 of probation. Failure to timely cooperate shall be considered a violation of probation.

19 5. Continuing Education

20 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
21 pharmacist as directed by the board or its designee.

22 6. Reporting of Employment and Notice to Employers

23 During the period of probation, respondent shall notify all present and prospective
24 employers of the decision in case number 6981 and the terms, conditions and restrictions imposed
25 on respondent by the decision, as follows:

26 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
27 undertaking any new employment, respondent shall report to the board in writing the name,
28 physical address, and mailing address of each of his employer(s), and the name(s) and telephone

1 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
2 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
3 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
4 employment. Respondent shall sign and return to the board a written consent authorizing the
5 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and
6 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
7 concerning respondent's work status, performance, and monitoring. Failure to comply with the
8 requirements or deadlines of this condition shall be considered a violation of probation.

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
11 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
12 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
13 board in writing acknowledging that the listed individual(s) has/have read the decision in case
14 number 6981, and terms and conditions imposed thereby. If one person serves in more than one
15 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
16 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
17 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
18 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
19 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
20 in case number 6981, and the terms and conditions imposed thereby.

21 If respondent works for or is employed by or through an employment service, respondent
22 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
23 of the decision in case number 6981, and the terms and conditions imposed thereby in advance of
24 respondent commencing work at such licensed entity. A record of this notification must be
25 provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of respondent undertaking any new employment by or through an employment service,
28 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service

1 to report to the board in writing acknowledging that he or she has read the decision in case
2 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
3 ensure that these acknowledgment(s) are timely submitted to the board.

4 Failure to timely notify present or prospective employer(s) or failure to cause the identified
5 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
6 shall be considered a violation of probation.

7 "Employment" within the meaning of this provision includes any full-time, part-time,
8 temporary, relief, or employment/management service position as a Pharmacist, or any position
9 for which a Pharmacist is a requirement or criterion for employment, whether the respondent is an
10 employee, independent contractor or volunteer.

11 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

12 Respondent shall further notify the board in writing within ten (10) days of any change in
13 name, residence address, mailing address, e-mail address or phone number.

14 Failure to timely notify the board of any change in employer, name, address, or phone
15 number shall be considered a violation of probation.

16 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

17 During the period of probation, respondent shall not supervise any intern pharmacist, be the
18 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
19 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
20 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

21 **9. Reimbursement of Board Costs**

22 As a condition precedent to successful completion of probation, respondent shall pay to the
23 board its costs of investigation and prosecution in the amount of \$10,000.

24 Respondent shall be permitted to pay these costs in a payment plan approved by the board
25 or its designee, so long as full payment is completed no later than one (1) year prior to the end
26 date of probation.

27 There shall be no deviation from this schedule absent prior written approval by the board or
28 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of

1 probation.

2 **10. Probation Monitoring Costs**

3 Respondent shall pay any costs associated with probation monitoring as determined by the
4 board each and every year of probation. Such costs shall be payable to the board on a schedule as
5 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
6 be considered a violation of probation.

7 **11. Status of License**

8 Respondent shall, at all times while on probation, maintain an active, current Registered
9 Pharmacist License with the board, including any period during which suspension or probation is
10 tolled. Failure to maintain an active, current Registered Pharmacist License shall be considered a
11 violation of probation.

12 If respondent's Registered Pharmacist License expires or is cancelled by operation of law or
13 otherwise at any time during the period of probation, including any extensions thereof due to
14 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
15 terms and conditions of this probation not previously satisfied.

16 **12. License Surrender While on Probation/Suspension**

17 Following the effective date of this decision, should respondent cease practice due to
18 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
19 respondent may relinquish his license, including any indicia of licensure issued by the board,
20 along with a request to surrender the license. The board or its designee shall have the discretion
21 whether to accept the surrender or take any other action it deems appropriate and reasonable.
22 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
23 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
24 become a part of the respondent's license history with the board.

25 Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall
26 license, including any indicia of licensure not previously provided to the board within ten (10)
27 days of notification by the board that the surrender is accepted if not already provided.
28 Respondent may not reapply for any license from the board for three (3) years from the effective

1 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
2 of the date the application for that license is submitted to the board, including any outstanding
3 costs.

4 13. Practice Requirement – Extension of Probation

5 Except during periods of suspension, respondent shall be employed as a Pharmacist in
6 California for a minimum of 40 hours per calendar month during the first twelve months of
7 probation, and for all times thereafter while on probation, Respondent shall be employed as a
8 Pharmacist in California for a minimum of 80 hours per calendar month. Any month during
9 which this minimum is not met shall extend the period of probation by one month. During any
10 such period of insufficient employment, respondent must nonetheless comply with all terms and
11 conditions of probation, unless respondent receives a waiver in writing from the board or its
12 designee.

13 If respondent does not practice as a Pharmacist in California for the minimum number of
14 hours in any calendar month, for any reason (including vacation), respondent shall notify the
15 board in writing within ten (10) days of the conclusion of that calendar month. This notification
16 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
17 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
18 practice at the required level. Respondent shall further notify the board in writing within ten (10)
19 days following the next calendar month during which respondent practices as a Pharmacist in
20 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
21 considered a violation of probation.

22 It is a violation of probation for respondent's probation to be extended pursuant to the
23 provisions of this condition for a total period, counting consecutive and non-consecutive months,
24 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
25 probation period on its website.

26 14. Violation of Probation

27 If respondent has not complied with any term or condition of probation, the board shall
28 have continuing jurisdiction over respondent, and the board shall provide notice to respondent

1 that probation shall automatically be extended, until all terms and conditions have been satisfied
2 or the board has taken other action as deemed appropriate to treat the failure to comply as a
3 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
4 board or its designee may post a notice of the extended probation period on its website.

5 If respondent violates probation in any respect, the board, after giving respondent notice
6 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
7 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
8 probation, or the preparation of an accusation or petition to revoke probation is requested from
9 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
10 probation shall be automatically extended until the petition to revoke probation or accusation is
11 heard and decided, and the charges and allegations in Accusation No. 6981 shall be deemed true
12 and correct.

13 **15. Completion of Probation**

14 Upon written notice by the board or its designee indicating successful completion of
15 probation, respondent's license will be fully restored.

16 **16. Pharmacists Recovery Program (PRP)**

17 By no later than ten (10) days after the effective date of this decision, respondent shall have
18 completed all of the following: contacted the Pharmacists Recovery Program (PRP) for
19 evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract as well as
20 any addendums required or suggested by the PRP; successfully completed registration for any
21 drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and
22 begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully
23 participate in the PRP and complete the treatment contract and any addendums required or
24 suggested by the PRP. The costs for PRP participation shall be borne by the respondent.

25 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
26 the effective date of this decision is no longer considered a self-referral under Business and
27 Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete
28 his current contract and any subsequent addendums with the PRP.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation of probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as directed by the PRP;

Failure to complete registration for any drug or alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;

Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;

Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or

Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

Respondent may not resume the practice of pharmacy until notified by the board in writing.

Probation shall be automatically extended until respondent successfully completes the PRP. The board will provide notice of any such suspension or extension of probation.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice as a Pharmacist nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

1 During any suspension, respondent shall not engage in any activity that requires the
2 professional judgment of and/or licensure as a Pharmacist. Respondent shall not direct or control
3 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
4 retailing of dangerous drugs and/or dangerous devices or controlled substances.

5 Failure to comply with any requirement or deadline stated by this term shall be considered a
6 violation of probation.

7 **17. Drug and Alcohol Testing**

8 Respondent, at his own expense, shall participate in testing as directed by the board or its
9 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
10 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
11 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
12 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
13 informed otherwise in writing by the board or its designee. Respondent may be required to
14 participate in testing for the entire probation period and frequency of testing will be determined
15 by the board or its designee.

16 By no later than thirty (30) days after the effective date of this decision, respondent shall
17 have completed all of the following tasks: enrolled and registered with an approved drug and
18 alcohol testing vendor; provided that vendor with any documentation, and any information
19 necessary for payment by respondent; commenced testing protocols, including all required
20 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
21 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
22 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
23 cooperate timely shall be considered a violation of probation.

24 Respondent may be required to test on any day, including weekends and holidays.
25 Respondent is required to make daily contact with the testing vendor to determine if a test is
26 required, and if a test is required must submit to testing on the same day.

27 Prior to any vacation or other period of absence from the area where the approved testing
28 vendor provides services, respondent shall seek and receive approval from the board or its

1 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
2 respondent shall enroll and register with the approved alternate drug testing vendor, provide to
3 that alternate vendor any documentation required by the vendor, including any necessary payment
4 by respondent. During the period of absence of the area, respondent shall commence testing
5 protocols with the alternate vendor, including required daily contacts with the testing vendor to
6 determine if testing is required, and required testing. Any failure to timely seek or receive
7 approval from the board or its designee, or to timely enroll and register with, timely commence
8 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
9 considered a violation of probation.

10 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
11 designee may require respondent to timely provide documentation from a licensed practitioner
12 authorized to prescribe the detected substance demonstrating that the substance was administered
13 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
14 documentation shall be provided by respondent within ten (10) days of being requested.

15 Any of the following shall be considered a violation of probation and shall result in
16 respondent being immediately suspended from practice as a Pharmacist until notified by the board
17 in writing that he may resume practice: failure to timely complete all of the steps required for
18 enrollment/registration with the drug testing vendor, including making arrangements for payment;
19 failure to timely commence drug testing protocols; failure to contact the drug testing vendor as
20 required to determine testing date(s); failure to test as required; failure to timely supply
21 documentation demonstrating that a detected substance was taken pursuant to a legitimate
22 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
23 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
24 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
25 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
26 controlled substance or dangerous drug absent documentation that the detected substance was
27 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
28 shall inform respondent of the suspension and inform him to immediately leave work, and shall

1 notify respondent's employer(s) and work site monitor(s) of the suspension.

2 During any such suspension, respondent shall not enter any pharmacy area or any portion of
3 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug
4 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
5 any area where dangerous drugs and/or dangerous devices or controlled substances are
6 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
7 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
8 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
9 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
10 dangerous devices and controlled substances.

11 During any such suspension, respondent shall not engage in any activity that requires the
12 professional judgment of and/or licensure as a Pharmacist. Respondent shall not direct or control
13 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
14 retailing of dangerous drugs and/or dangerous devices.

15 Failure to comply with any such suspension shall be considered a violation of probation.
16 Failure to comply with any requirement or deadline stated by this term shall be considered a
17 violation of probation.

18 **18. Notification of Departure**

19 Prior to leaving the probationary geographic area designated by the board or its designee for
20 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
21 writing of the dates of departure and return. Failure to comply with this provision shall be
22 considered a violation of probation.

23 **19. Abstain from Drugs and Alcohol**

24 Respondent shall completely abstain from the possession or use of alcohol, controlled
25 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
26 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
27 necessary part of treatment. Respondent shall ensure that he is not in the same physical location
28 as individuals who are using illicit substances even if respondent is not personally ingesting the

1 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
2 substances, or their associated paraphernalia for which a legitimate prescription has not been
3 issued as a necessary part of treatment, or any physical proximity to persons using illicit
4 substances, shall be considered a violation of probation.

5 **20. Prescription Coordination and Monitoring of Prescription Use**

6 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
7 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
8 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
9 history with the use of controlled substances and dangerous drugs and who will coordinate and
10 monitor any prescriptions for respondent for dangerous drugs and/or dangerous devices,
11 controlled substances or mood-altering drugs. The approved practitioner shall be provided with a
12 copy of the board's Accusation and decision. A record of this notification must be provided to
13 the board or its designee upon request. Respondent shall sign a release authorizing the
14 practitioner to communicate with the board or its designee about respondent's treatment(s). The
15 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the
16 board on a quarterly basis for the duration of probation regarding respondent's compliance with
17 this condition. If any substances considered addictive have been prescribed, the report shall
18 identify a program for the time limited use of any such substances. The board or its designee may
19 require that the single coordinating physician, nurse practitioner, physician assistant or
20 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
21 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
22 shall notify the board or its designee immediately and, within thirty (30) days of ceasing
23 supervision, submit the name of a replacement physician, nurse practitioner, physician assistant,
24 or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
25 timely submit the selected practitioner or replacement practitioner to the board or its designee for
26 approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of
27 probation.

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1 If at any time an approved practitioner determines that respondent is unable to practice
2 safely or independently as a Pharmacist, the practitioner shall notify the board or its designee
3 immediately by telephone and follow up by written letter within three (3) working days. Upon
4 notification from the board or its designee of this determination, respondent shall be
5 automatically suspended and shall not resume practice as a Pharmacist until notified by the board
6 or its designee that practice may be resumed.

7 During any suspension, respondent shall not enter any pharmacy area or any portion of the
8 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
9 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
10 any area where dangerous drugs and/or dangerous devices or controlled substances are
11 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
12 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
13 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
14 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
15 dangerous devices and controlled substances. Respondent shall not resume practice until notified
16 by the board.

17 During any suspension, respondent shall not engage in any activity that requires the
18 professional judgment and/or licensure as a Pharmacist. Respondent shall not direct or control
19 any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or
20 retailing of dangerous drugs and/or dangerous devices or controlled substances.

21 Failure to comply with any requirement or deadline stated by this term shall be considered a
22 violation of probation.

23 21. **Facilitated Group Recovery and/or Support Meetings**

24 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
25 attendance at a group recovery and/or support meeting that is run by a trained facilitator approved
26 in advance by the board or its designee. The required frequency of group meeting attendance
27 shall be determined by the board or its designee. Respondent shall continue regular attendance as
28 directed at an approved facilitated group meeting until the board or its designee advises the

1 respondent in writing that he may cease regular attendance. Respondent shall provide signed and
2 dated documentation of attendance as required with each quarterly report. Failure to attend as
3 required or to submit documentation of attendance shall be considered a violation of probation.

4 If respondent is required to participate in the PRP, compliance with this term can be
5 demonstrated through that program. Where respondent is enrolled in the PRP, participation as
6 required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of
7 this requirement. Any deviation from participation requirements for the PRP-approved group
8 shall be considered a violation of probation.

9 **22. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

10 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
11 attendance at a recognized and established substance abuse recovery support group in California
12 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
13 or its designee. Respondent must attend the number of group meetings per week or month
14 directed by the board or its designee, which shall typically be at least one per week. Respondent
15 shall continue regular attendance and submit signed and dated documentation confirming
16 attendance with each quarterly report for the duration of probation. Failure to attend or submit
17 documentation thereof shall be considered a violation of probation.

18 Where respondent is enrolled in the PRP, participation as required in a recovery group
19 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any
20 deviation from participation requirements for the PRP-approved group shall be considered a
21 violation of probation.

22 **23. Work Site Monitor**

23 Within ten (10) days of the effective date of this decision, respondent shall identify a work
24 site monitor, for prior approval by the board or its designee, who shall be responsible for
25 supervising respondent during working hours. Respondent shall be responsible for ensuring that
26 the work site monitor reports in writing to the board monthly or on another schedule as directed
27 by the board or its designee. Should the designated work site monitor suspect at any time during
28 the probationary period that respondent has abused alcohol or drugs, he or she shall notify the

1 board immediately.

2 In the event of suspected abuse, the monitor shall make at least oral notification within one
3 (1) business day of the occurrence, and shall be followed by written notification within two (2)
4 business days of the occurrence. If, for any reason, including change of employment, respondent
5 is no longer able to be monitored by the approved work site monitor, within ten (10) days
6 respondent shall designate a new work site monitor for approval by the board or its designee.
7 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure
8 monthly reports are submitted to the board by the monitor, shall be considered a violation of
9 probation.

10 Within thirty (30) days of being approved by the board or its designee, the work site
11 monitor shall sign an affirmation that he or she has reviewed the terms and conditions of
12 respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at
13 least:

- 14 1) Have regular face-to-face contact with respondent in the work environment, at least
15 once per week or with greater frequency if required by the board or its designee;
- 16 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 17 3) Review respondent's work attendance.

18 The written reports submitted to the board or its designee by the work site monitor shall
19 include at least the following information: respondent's name and license number; the monitor's
20 name, license number (if applicable) and work site location; the date(s) the monitor had face-to-
21 face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on
22 any changes in respondent's behavior or personal habits; notes on any indicators that may lead to
23 substance abuse; and the work site monitor's signature.

24 Respondent shall complete the required consent forms and sign an agreement with the work
25 site monitor and the board to allow the board to communicate with the work site monitor.

26 It is a condition of respondent's enrollment in the Pharmacists Recovery Program (PRP)
27 that he is required to have a work site monitor approved by the PRP who shall be responsible for
28 supervising respondent during working hours. Respondent shall be responsible for ensuring that

1 the work site monitor reports in writing to the PRP monthly or on another schedule as directed by
2 the PRP. Should the designated work site monitor suspect at any time during the probationary
3 period that respondent has abused alcohol or drugs, he or she shall notify the PRP immediately.
4 The initial notification shall be made orally within one (1) business day of the occurrence, which
5 shall be followed by written notification within two (2) business days of the occurrence. If, for
6 any reason, including change of employment, respondent is no longer able to be monitored by the
7 approved work site monitor, within ten (10) days of commencing new employment for prior
8 approval by the PRP. Failure to identify an acceptable initial or replacement work site monitor, or
9 to ensure monthly reports are submitted to the PRP by the work site monitor, shall be considered
10 a violation of probation.

11 Within thirty (30) days of being approved by the PRP, the work site monitor shall sign an
12 affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary
13 order and agrees to monitor respondent. The work site monitor shall at least:

- 14 1) Have regular face-to-face contact with respondent in the work environment, at least
15 once per week or with greater frequency if required by the board or its designee;
- 16 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 17 3) Review respondent's work attendance.

18 The written reports submitted to the PRP by the work site monitor shall include at least the
19 following information: respondent's name and license number; the monitor's name, license
20 number (if applicable) and work site location; the date(s) the monitor had face-to-face contact
21 with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes
22 in respondent's behavior or personal habits; notes on any indicators that may lead to substance
23 abuse; and the work site monitor's signature.

24 Respondent shall complete the required consent forms and sign an agreement with the work
25 site monitor and the board to allow the board to communicate with the work site monitor.

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it will have on my Registered Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

PATRICK MUN KIN CHUNG
Respondent

I have read and fully discussed with Respondent Patrick Mun Kin Chung the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

SCOTT J. HARRIS, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

MICHAEL M. KARIMI
Deputy Attorney General
Attorneys for Complainant

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1 ACCEPTANCE

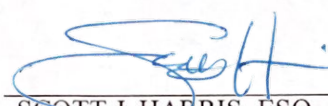
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it
4 will have on my Registered Pharmacist License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Pharmacy.

7
8 DATED: 6/1/2021


PATRICK MUN KIN CHUNG
Respondent

10 I have read and fully discussed with Respondent Patrick Mun Kin Chung the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 6/1/2021


SCOTT J. HARRIS, ESQ.
Attorney for Respondent


16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy.

19
20 DATED: 6/1/21

Respectfully submitted,

21 ROB BONTA
22 Attorney General of California
23 JAMES M. LEDAKIS
24 Supervising Deputy Attorney General


25 MICHAEL M. KARIMI
26 Deputy Attorney General
27 Attorneys for Complainant

28 SD2020800430
82861618.docx

Exhibit A

Accusation No. 6981

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Attorney General of California
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Supervising Deputy Attorney General
3 MICHAEL M. KARIMI
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4 State Bar No. 260906
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P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9607
7 Facsimile: (619) 645-2061
E-mail: Michael.Karimi@doj.ca.gov
8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 6981

15 **PATRICK MUN KIN CHUNG**
16 **39 Pawprint**
17 **Irvine, CA 92618**

ACCUSATION

18 **Registered Pharmacist License No. RPH**
19 **62941**

20 Respondents.

21 **PARTIES**

22 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about August 18, 2009, the Board of Pharmacy issued Registered Pharmacist
25 License Number RPH 62941 to Patrick Mun Kin Chung (Respondent). The Registered
26 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on February 28, 2021, unless renewed.

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6. Code section 4300.1 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

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10. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

11. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

...

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license.

...

1 12. Health and Safety Code section 11170 states that no person shall prescribe,
2 administer, or furnish a controlled substance for himself.

3 13. Health and Safety Code section 11171 states that no person shall prescribe,
4 administer, or furnish a controlled substance except under the conditions and in the manner
5 provided by this division.

6 14. Health and Safety Code section 11173, subdivision (a) states:

7 No person shall obtain or attempt to obtain controlled substances, or procure or
8 attempt to procure the administration of or prescription for controlled substances, (1)
9 by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a
material fact.

10 **COST RECOVERY**

11 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **DEFINITIONS**

16 16. Hydromorphone is a schedule II Controlled Substance designated by Health and
17 Safety Code section 11055(b)(1)(j), and as a dangerous drug pursuant to section 4022.

18 17. Fentanyl is a Schedule II Controlled Substance as designated by Health and Safety
19 Code section 11055(c)(8), and as a dangerous drug pursuant to section 4022.

20 18. Propofol is a dangerous drug pursuant to section 4022.

21 **FACTUAL ALLEGATIONS**

22 19. Respondent worked as a pharmacist at University of California Irvine Medical Center
23 (UCI Medical Center) beginning July 9, 2012. In the timeframe relevant to the events described
24 below, Respondent was typically assigned 16 hours per week to an IT Department team which
25 dealt with pharmacy projects, and 24 hours per week to clinical pharmacy duties. Respondent's
26 IT Department assignment involved no medication handling duties.

27 20. On or about March 18, 2020, Respondent was found by officers with the Orange
28 Police Department in the area of Orangewood Avenue and the Santa Ana River. Respondent was

1 found with multiple apparent self-inflicted lacerations and other injuries. He was taken to UCI
2 Medical Center for treatment.

3 21. On the same day, Respondent's direct supervisor Rosemarie Boward was informed of
4 Respondent's hospital admission, and learned of the presence of scarring on him which was
5 consistent with substance abuse.

6 22. On or about March 20, 2020, Respondent asked to speak with Ms. Boward. Although
7 Respondent's statements to Ms. Boward were ambiguous, during their brief conversation Ms.
8 Boward understood Respondent to be confessing a substance abuse problem that had begun two
9 years earlier.

10 23. During an interview with a Board inspector on or about April 25, 2020, Respondent
11 explained that his mental health "broke down" under constant fear surrounding COVID-19, and
12 he thereby decided his family would be safer without him. He took a scalpel and, from a waste
13 bin at UCI Medical Center, hydromorphone to anesthetize himself with in his suicide attempt on
14 March 18, 2020. UCI Medical Center records show that Respondent used his badge to gain
15 access to the medication rooms within the Medical Intensive Care Unit on March 18, 2020, where
16 controlled substances were routinely wasted.

17 24. A drug screen of Respondent's urine from March 18, 2020 returned positive for
18 fentanyl, midazolam, and hydromorphone. Respondent attributed the positive screen for fentanyl
19 and midazolam to the hospital's administration to him of those two drugs during his treatment
20 following his suicide attempt.

21 25. UCI Medical Center conducted a review of Respondent's controlled substance
22 transactions occurring in a 90 day window in early 2020 via the automated medication dispensing
23 system Pyxis. The review identified irregularities in Respondent's Pyxis activities suggestive of
24 diversion, particularly in transactions for fentanyl and propofol. UCI Medical Center stored
25 fentanyl in refrigerators, accessible with a key retrieved from a Pyxis unit.

26 26. Among the irregularities identified within these Pyxis transactions was the discovery
27 that Respondent repeatedly performed Pyxis functions that were usually assigned to pharmacy
28 technicians, such as "inventory," "refill," and "cancel remove" functions, and that he was the only

1 UCI Medical Center pharmacist to do so outside his assigned work areas. In addition, within the
2 90 day window, the cumulative total number of fentanyl bag transactions by the four other UCI
3 Medical Center clinical pharmacists identified as having similar duties to Respondent was two.
4 Unlike Respondent, these four other pharmacists did not have their clinical pharmacy shifts
5 limited by IT Department shifts. In the same period, Respondent's total fentanyl bag transactions
6 numbered forty. Moreover, a number of Respondent's Pyxis transactions took place in areas that
7 did not match his assigned shift, and some took place after Respondent's shift had ended.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Unprofessional Conduct)

10 27. Respondent Patrick Mun Kin Chung is subject to disciplinary action under Code
11 section 4301, subdivisions (f), (h), and (j), for unprofessional conduct for taking controlled
12 substances from UCI Medical Center during the course of his employment, and for administering
13 or furnishing controlled substances to himself on or about March 18, 2020 without a prescription,
14 as set forth in paragraphs 19 through 26, above, which are incorporated herein as though set forth
15 in full.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

18 28. Respondent Patrick Mun Kin Chung is subject to disciplinary action under Code
19 section 4301, subdivisions (f) for acts involving moral turpitude, dishonesty fraud, deceit, or
20 corruption, for taking controlled substances from UCI Medical Center during the course of his
21 employment as set forth in paragraphs 19 through 26, above, which are incorporated herein as
22 though set forth in full.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Controlled Substances: Prescription Required)

25 29. Respondent Patrick Mun Kin Chung is subject to disciplinary action under Code
26 section 4060 for possessing controlled substances without a prescription on or about March 18,
27 2020, as set forth in paragraphs 19 through 26, above, which are incorporated herein as though set
28 forth in full.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Furnishing Controlled Substances to Self)

3 30. Respondent Patrick Mun Kin Chung is subject to disciplinary action under Health and
4 Safety Code section 11170 for administering or furnishing controlled substances for himself on or
5 about March 18, 2020, as set forth in paragraphs 19 through 26, above, which are incorporated
6 herein as though set forth in full.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking or suspending Registered Pharmacist License Number RPH 62941, issued
11 to Patrick Mun Kin Chung;

12 2. Ordering Patrick Mun Kin Chung to pay the Board of Pharmacy the reasonable costs
13 of the investigation and enforcement of this case, pursuant to Business and Professions Code
14 section 125.3; and,

15 3. Taking such other and further action as deemed necessary and proper.
16
17

18 DATED: 9/8/2020

Anne Sodergren

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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